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Attorneys for Elissa D. Miller, Chapter 7  
Trustee

**UNITED STATES BANKRUPTCY COURT**  
**CENTRAL DISTRICT OF CALIFORNIA**  
**LOS ANGELES DIVISION**

In re  
GIRARDI KEESE,  
  
Debtor.

Case No. 2:20-bk-21022-BR  
Chapter 7  
Adv No. 2:21-ap-01175-BR

ELISSA D. MILLER, Chapter 7 Trustee for  
the bankruptcy estate of Girardi Keese,  
  
Plaintiff,

**ANSWER TO COUNTERCLAIM IN  
INTERPLEADER OF ROBERT  
MANDELL AND THE MANDELL LAW  
FIRM**

v.

ROBERT MANDELL, an individual; THE  
MANDELL LAW FIRM, and ROBERT W.  
FINNERTY, an individual,  
  
Defendants.

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1 Plaintiff Elissa D. Miller, the chapter 7 trustee (the "Trustee" or "Plaintiff"), by and  
2 through her counsel, respectfully submits this answer to the Counterclaim in Interpleader  
3 [Docket No. 7] (the "Counterclaim")<sup>1</sup> filed by Defendants Robert Mandell and The Mandell  
4 Law Firm (collectively, the "Counterclaimants") as follows:

5 **GENERAL ALLEGATIONS**

6 1. The Plaintiff admits the allegations contained in paragraph 1 of the  
7 Counterclaim.

8 2. The Plaintiff admits the allegation contained in paragraph 2 of the  
9 Counterclaim that the Counterclaim is a core proceeding under 28 U.S.C. § 157(b)(2)(A),  
10 but denies that 28 U.S.C. § 157(b)(2)(B) applies.

11 3. The Plaintiff admits the allegations contained in paragraph 3 of the  
12 Counterclaim.

13 4. The Plaintiff admits the allegations contained in paragraph 4 of the  
14 Counterclaim.

15 5. The Plaintiff admits the allegations contained in paragraph 5 of the  
16 Counterclaim.

17 6. The Plaintiff admits the allegations contained in paragraph 6 of the  
18 Counterclaim.

19 7. The Plaintiff admits the allegations contained in paragraph 7 of the  
20 Counterclaim.

21 8. The Plaintiff admits the allegations contained in paragraph 8 of the  
22 Counterclaim.

23 **THE DISPUTE**

24 9. The Plaintiff denies the allegation that the Exide Fees are "presently held in  
25 trust" by the Counterclaimants, but admits that certain funds are in possession of the  
26

27 <sup>1</sup> Any capitalized terms not defined herein shall have the meanings ascribed to them  
28 in the Plaintiff's Complaint [Docket No. 1].

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1 Counterclaimants. The Plaintiff admits the remaining allegations contained in paragraph  
2 9 of the Counterclaim.

3 10. Answering paragraph 10 of the Counterclaim, the Plaintiff admits that the  
4 Exide Fees are comprised of attorney's fees for representation of the plaintiffs in major  
5 toxic tort litigation but asserts that those fees are for the Debtor's representation and  
6 therefore denies the remaining allegations contained in paragraph 10 of the  
7 Counterclaim.

8 11. Answering paragraph 11 of the Counterclaim, the Plaintiff lacks sufficient  
9 information or belief to determine the truth or validity of the allegations and, on that basis,  
10 denies the allegations contained in paragraph 11 of the Counterclaim.

11 12. The Plaintiff admits that certain fees were paid on February 12, 2019 and  
12 on December 21, 2020, but lacks sufficient information or belief to determine the truth or  
13 validity of whether these fee awards were the "largest," and on that basis, denies the  
14 allegation that the fee awards on February 12, 2019 and December 21, 2020 were the  
15 largest. The Plaintiff admits the remaining allegations contained in Paragraph 12 of the  
16 Counterclaim.

17 13. The Plaintiff admits the allegations contained in paragraph 13 of the  
18 Counterclaim.

19 14. The Plaintiff admits the allegations contained in paragraph 14 of the  
20 Counterclaim.

21 15. The Plaintiff admits that the Counterclaimants have no interest in the  
22 remaining Exide Fees. Answering the remaining allegations contained in paragraph 15 of  
23 the Counterclaim, the Plaintiff lacks sufficient information or belief to determine the truth  
24 or validity of the allegations and, on that basis, denies the remaining allegations  
25 contained in paragraph 15 of the Counterclaim.

26 16. Answering paragraph 16 of the Counterclaim, the allegations contained in  
27 paragraph 16 of the Counterclaim consist of a legal conclusion to which no response is  
28

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1 required. To the extent the Court requires a response, the Plaintiff denies the allegations  
2 contained in paragraph 16 of the Counterclaim.

3 17. The Plaintiff admits the allegations contained in paragraph 17 of the  
4 Counterclaim.

5 18. Answering paragraph 18 of the Counterclaim, the allegations contained in  
6 paragraph 18 of the Counterclaim consist of a legal conclusion to which no response is  
7 required. To the extent the Court requires a response, the Plaintiff denies the allegations  
8 contained in paragraph 18 of the Counterclaim.

9 19. Answering paragraph 19 of the Counterclaim, the Plaintiff lacks sufficient  
10 information or belief to determine the truth or validity of the allegations and, on that basis,  
11 denies the allegations contained in paragraph 19 of the Counterclaim.

12 **PLAINTIFF'S RESERVATION OF RIGHTS**

13 20. The Plaintiff contends that the Counterclaim for Interpleader is unnecessary  
14 because the Plaintiff has previously (and repeatedly) offered to hold the Exide Fees  
15 subject to any and all claims against the Exide Fees until further order of the Court.

16 21. The Plaintiff contends that the Counterclaimants are not entitled to any  
17 costs and attorneys' fees in connection with the Counterclaim. The Plaintiff further  
18 contends that the Counterclaimants should not be discharged from any and all liability on  
19 the Trustee's claims in the Complaint, and that the Plaintiff should not be restrained from  
20 prosecuting the claims in her Complaint against the Counterclaimants.

21 22. The Plaintiff reserves the right to add affirmative defenses as they become  
22 known through discovery and/or investigation of this matter.

23 WHEREFORE, the Plaintiff prays for relief and judgment against the  
24 Counterclaimants as follows:

- 25 1. That the Court enter judgment in favor of the Plaintiff on the Counterclaim;  
26 2. That the Counterclaimants take nothing by way of the Counterclaim;  
27 3. That the Plaintiff be awarded attorneys' fees and costs as authorized by  
28 law; and

4. For such other and further relief as the Court may deem just and proper.

DATED: January 3, 2022

SMILEY WANG-EKVALL, LLP

By: /s/ Kyra E. Andrassy

KYRA E. ANDRASSY

Attorneys for Elissa D. Miller, Chapter 7  
Trustee

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## PROOF OF SERVICE OF DOCUMENT

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is 3200 Park Center Drive, Suite 250, Costa Mesa, CA 92626.

A true and correct copy of the foregoing document entitled (*specify*): **ANSWER TO COUNTERCLAIM IN INTERPLEADER OF ROBERT MANDELL AND THE MANDELL LAW FIRM** will be served or was served (a) on the judge in chambers in the form and manner required by LBR 5005-2(d); and (b) in the manner stated below:

**1. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF):** Pursuant to controlling General Orders and LBR, the foregoing document will be served by the court via NEF and hyperlink to the document. On (*date*) January 3, 2022 I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following persons are on the Electronic Mail Notice List to receive NEF transmission at the email addresses stated below:

☒ Service information continued on attached page.

**2. SERVED BY UNITED STATES MAIL:**

On (*date*) January 3, 2022, I served the following persons and/or entities at the last known addresses in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the United States mail, first class, postage prepaid, and addressed as follows. Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.

The Honorable Barry Russell  
U.S. Bankruptcy Court  
Roybal Federal Building  
255 E. Temple Street, Suite 1660  
Los Angeles, CA 90012

Robert Finnerty  
10425 Whipple Street  
Toluca Lake, CA 91602

☐ Service information continued on attached page.

**3. SERVED BY PERSONAL DELIVERY, OVERNIGHT MAIL, FACSIMILE TRANSMISSION OR EMAIL** (*state method for each person or entity served*): Pursuant to F.R.Civ.P. 5 and/or controlling LBR, on (*date*) \_\_\_\_\_, I served the following persons and/or entities by personal delivery, overnight mail service, or (for those who consented in writing to such service method), by facsimile transmission and/or email as follows. Listing the judge here constitutes a declaration that personal delivery on, or overnight mail to, the judge will be completed no later than 24 hours after the document is filed.

☐ Service information continued on attached page.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

January 3, 2022

*Date*

Gabriela Gomez-Cruz

*Printed Name*

/s/ Gabriela Gomez-Cruz

*Signature*

**ADDITIONAL SERVICE INFORMATION (if needed):**

**1. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF):**

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